

NO. 2017CI02041

EX PARTE

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IN THE DISTRICT COURT

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438TH JUDICIAL DISTRICT

CALVIN DAY

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BEXAR COUNTY, TEXAS

PETITION FOR EXPUNCTION

TO THE HONORABLE JUDGE OF SAID COURT:

Now comes CALVIN DAY, Petitioner, and moves the Court to order expunction of all criminal records and files pertaining to the arrest of Petitioner described below, and would respectfully show as follows:

1. The following information regarding Petitioner is included pursuant to Section 2(b) of Article 55.02, Texas Code of Criminal Procedure:

NAME: CALVIN DAY
SEX: Male
RACE: White
DATE OF BIRTH: 07/04/1951
DRIVER'S LICENSE NO. & STATE: 06082035, Texas
SOCIAL SECURITY NO.: 460-90-2548
BEXAR COUNTY SID NO.: 964748
ADDRESS AT TIME OF ARREST: 716 College Boulevard, San Antonio TX 78209

2. CALVIN DAY was charged the following offenses, regarding which the following information is provided in accordance with said Section 2(b) of said Article 55.02:

ALLEGED OFFENSE: Sexual Assault
DATE OF ALLEGED OFFENSE: 08/22/2010
DATE OF ARREST: 01/27/2011
COUNTY OF ARREST: Bexar County
MUNICIPALITY WHERE ARREST OCCURRED: San Antonio
ARRESTING AGENCIES: San Antonio Police Department
CASE NUMBER: 2011-CR-3682
COURT: 379th Judicial District Court
DISPOSITION: Dismissed 12/18/15

ALLEGED OFFENSE: Sexual Assault
DATE OF ALLEGED OFFENSE: 07/29/2009
DATE OF ARREST: 05/12/2011
COUNTY OF ARREST: Bexar County
MUNICIPALITY WHERE ARREST OCCURRED: San Antonio
ARRESTING AGENCIES: San Antonio Police Department
CASE NUMBER: 2011-CR-3683
COURT: 379th Judicial District Court
DISPOSITION: Dismissed 02/12/2016

There was no Court Ordered community supervision under Article 42.12 of the Texas Code of Criminal Procedure.

3. Petitioner is entitled to an expunction of all records and files relating to said alleged offenses under Article 55.01(a) (2) (A)(ii) of the Texas Code of Criminal Procedure, because the indictments or information were presented against Petitioner for said offenses arising out of the transaction for which Petitioner was arrested, and were Dismissed on 12/18/2015 and 02/12/2016 (See Exhibit A & B). Petitioner further states that Petitioner has been released, that the charge has not resulted in a final conviction and is no longer pending, and that there was no court-ordered community supervision under Article 42.12 of the Texas Code of Criminal Procedure.

4. Petitioner has not been convicted of a felony in the five years preceding the date of said arrest.

5. Petitioner has reason to believe that the following law enforcement agencies, jails or other detention facilities, magistrates, courts, prosecuting attorneys, correctional facilities, central state depositories of criminal records, or other officials, agencies, entities, or political subdivisions may have records or files pertaining to Petitioner in connection with the arrest and/or alleged offense described above, and which are subject to expunction:

Bexar County District Clerk
Paul Elizondo Tower
101 W Nueva, Suite #217
San Antonio, Texas 78205-3411

**Bexar County District Attorney
Cadena-Reeves Justice Center
300 Dolorosa, Suite 4049
San Antonio, Texas 78205-3004**

**Bexar County Clerk
Cadena-Reeves Justice Center
300 Dolorosa, Suite 108
San Antonio, Texas 78205**

**Bexar County Sheriff
200 N. Comal
San Antonio, Texas 78207-3536**

**Bexar County PreTrial Services / Adult Probation
207 N Comal
San Antonio, Texas 78208-3536**

**Texas Department of Public Safety
Expunction Unit
Crime Record Service (MSC) (0234)
P.O. Box 4143
Austin, Texas 78765-4143**

**San Antonio Police Department
315 S Santa Rosa
San Antonio, Texas 78207**

**San Antonio Municipal Court, Night Magistrate
401 S. Frio
San Antonio, Texas 78207-4432**

**Federal Bureau of Investigation
U.S. Department of Justice, Identification Division
J. Edgar Hoover Building
Washington D.C. 20537**

**Information Resource Department
P.O. Box 9066
San Antonio, Texas 78282**

**National Crime Information Center
Criminal Justice Information Division
FBI Complex
1000 Custer Hollow Road
Clarksburg ,WV 26306**

**Texas Medical Board
333 Guadalupe
Tower 3, Suite 610
Austin, Texas 78701**

**Texas Medical Board
Investigations
P.O. Box 2018, MC-263
Austin, Texas 78768-2018**

**Texas Medical Board
Licensure
P.O. Box 2029
Austin, Texas 78768-2029**

**National Practitioner Data Bank
P.O. Box 10832
Chantilly, VA 20153-0832**

**New York State Department of Health
Corning Tower
Empire State Plaza,
Albany, NY 12237**

**San Antonio Express News
P.O. Box 2171
San Antonio, TX 78297**

**KSAT 12
1408 N. St. Mary's Street
San Antonio, TX 78215**

**WOAI News 4
4335 NW Loop 410
San Antonio, TX 78229**

**KENS 5
5400 Fredericksburg Road
San Antonio, TX 78229**

WHEREFORE, PREMISES CONSIDERED, Petitioner prays that the Court set this matter for a hearing, and after notice to each of the above agencies, the above-described records be expunged as provided by Chapter 55 of the Texas Code of Criminal Procedure.

Respectfully submitted,

Law Office of Shawn C. Brown, P.C.
540 S. St. Mary's St.
San Antonio, TX 78205
Tel: (210) 324-8200
Fax: (210) 324-8214

By: 

SHAWN C. BROWN
State Bar No. 24003613
Attorney for CALVIN DAY

VERIFICATION

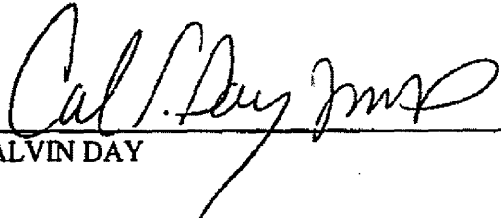
STATE OF TEXAS

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COUNTY OF BEXAR

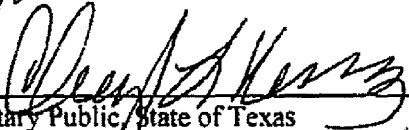
BEFORE ME, the undersigned authority, personally appeared CALVIN DAY, who, having been duly sworn, stated:

"My name is CALVIN DAY, I am the Petitioner in the above Petition for Expunction. I have read said Petition for Expunction and the facts stated therein are true and correct."

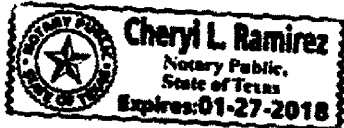


CALVIN DAY

Sworn to and subscribed before me on Jan 31 2017



Notary Public, State of Texas
My Commission Expires: 1/27/18



2017CI02041

NO. _____

EX PARTE

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IN THE DISTRICT COURT

438

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_____**JUDICIAL DISTRICT**

CALVIN DAY

§

BEXAR COUNTY, TEXAS

FIAT

The above matter is set for hearing on the 16 day of MARCH, 2017 at
2:00 P.M. ROOM109
_____ a.m./p.m. in the _____ Presiding District Court, Bexar County Courthouse, 100

Dolorosa, San Antonio, Texas 78205.

SIGNED on 2/3/2017

Michael E. Mery

Presiding Judge

37th District Court

JUDGE PRESIDING

Bexar County, Texas

Exhibit A

CAUSE NO: 2011 CR 3682
OFFENSE: SEXUAL ASSAULT



THE STATE OF TEXAS § IN THE 379 DISTRICT COURT
V. § COUNTY COURT NO. _____
CALVIN DAY § BEXAR COUNTY, TEXAS

MOTION TO DISMISS

TO THE HONORABLE JUDGE OF SAID COURT: J. Charles Bunk, Appointed special prosecutor
NOW COMES ~~NICHOLAS L. HOOB~~, Criminal District Attorney of Bexar County, Texas by and through the undersigned Assistant Criminal District Attorney, and respectfully requests the Court to dismiss the above entitled and numbered criminal action for the following reason:

- _____ 0604 - The Defendant was convicted (or sentence deferred) in another case or count.
- _____ 0606 - The Defendant is in custody in another jurisdiction.
- _____ 0608 - Old case, no arrest.
- _____ 0609 - The Defendant was granted immunity.
- _____ 0610 - Motion to suppress granted.
- _____ 0611 - Insufficient evidence.
- _____ 0612 - Co-Defendant convicted, insufficient evidence as to this Defendant.
- _____ 0614 - A necessary and material witness is missing.
- 0615 - Other. (see explanation below)
- _____ 0617 - Case re-indicted/re-filed.
- _____ 0626 - The law enforcement agency failed to submit necessary evidence.
- _____ 0629 - Complainant requested case be dismissed.
- _____ 0630 - The Defendant died.
- _____ 0639 - Defendant completed a pretrial diversion program.
- _____ 0672 - Rejected extraneous offense.
- _____ 0673 - Rejected multi-count charging document filed.
- _____ 0681 - Further investigation.
- _____ 0682 - Restitution paid in full.
- _____ 0699 - Created in error.

FILED
JUNIA MAY MEINNEY
DISTRICT CLERK
BEXAR COUNTY
15 DEC 18 PM 1:19
Charles Bunk

EXPLANATION: UNABLE TO PROVE BEYOND A REASONABLE DOUBT, BECAUSE COMPLAINANT IS UNWILLING TO TESTIFY IN RETRIAL

WHEREFORE, PREMISES CONSIDERED on this the 18 day of DEC, 2015, it is requested that the above entitled cause be dismissed.

Respectfully submitted,
J. Charles Bunk
Assistant Criminal District Attorney Appointed Special Prosecutor
Bexar County, Texas
State Bar Number 00742382

The foregoing motion having been presented to me on this the 18 day of DEC, 2015, and the same having been considered, it is ORDERED, ADJUDGED AND DECREED that said above entitled and numbered cause be and the same is hereby dismissed.

[Signature]
Presiding Judge, Bexar County, Texas

12182015 : 359P1565

Exhibit B

CAUSE NO: 2011 CR 3683
OFFENSE: Sexual Assault



THE STATE OF TEXAS § IN THE 379 DISTRICT COURT
V. § COUNTY COURT NO. _____
Calvin Day § BEXAR COUNTY, TEXAS

MOTION TO DISMISS

TO THE HONORABLE JUDGE OF SAID COURT: J. Charles Bunk

NOW COMES NICHOLAS LAHOOD, Criminal District Attorney of Bexar County, Texas by and through the undersigned Assistant Criminal District Attorney, and respectfully requests the Court to dismiss the above entitled and numbered criminal action for the following reason:

- _____ 0604 - The Defendant was convicted (or sentence deferred) in another case or count.
- _____ 0606 - The Defendant is in custody in another jurisdiction.
- _____ 0608 - Old case, no arrest.
- _____ 0609 - The Defendant was granted immunity.
- _____ 0610 - Motion to suppress granted.
- _____ 0611 - Insufficient evidence.
- _____ 0612 - Co-Defendant convicted, insufficient evidence as to this Defendant.
- _____ 0614 - A necessary and material witness is missing.
- 0615 - Other. (see explanation below)
- _____ 0617 - Case re-indicted/re-filed.
- _____ 0626 - The law enforcement agency failed to submit necessary evidence.
- _____ 0629 - Complainant requested case be dismissed.
- _____ 0630 - The Defendant died.
- _____ 0639 - Defendant completed a pretrial diversion program.
- _____ 0672 - Rejected extraneous offense.
- _____ 0673 - Rejected multi-count charging document filed.
- _____ 0681 - Further investigation.
- _____ 0682 - Restitution paid in full.
- _____ 0699 - Created in error.

EXPLANATION: UNABLE TO PROVE BEYOND A REASONABLE DOUBT, BECAUSE COMPLAINANT IS UNWILLING TO TESTIFY AT TRIAL

WHEREFORE, PREMISES CONSIDERED on this the 12th day of Feb., 2016, it is requested that the above entitled cause be dismissed.

Respectfully submitted,

[Signature]
Assistant Criminal District Attorney Approved
Bexar County, Texas [Signature]
State Bar Number 00712202

ORDER

The foregoing motion having been presented to me on this the 15th day of Feb, 2016, and the same having been considered, it is ORDERED, ADJUDGED AND DECREED that said above entitled and numbered cause be and the same is hereby dismissed.

[Signature]
Presiding Judge, Bexar County, Texas

345P2000

FILED
KAY MCKINNEY
DISTRICT CLERK
BEXAR COUNTY

FEB 12 PM 4:58

DEPUTY
[Signature]

02162016