

**2017CI02041**  
NO.

**EX PARTE**

**§**

**IN THE DISTRICT COURT**

**§ 438TH JUDICIAL DISTRICT**

**CALVIN DAY**

**§**

**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: 379<sup>th</sup> 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: 379<sup>th</sup> 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

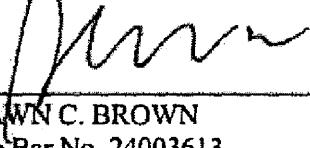
**WOAI News 4**  
4335 NW Loop 410  
San Antonio, TX 78229

**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) 724-8200  
Fax: (210) 724-8214

By: 

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

**VERIFICATION**

**STATE OF TEXAS**

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§  
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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."

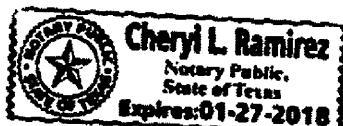
Calvin Day  
CALVIN DAY

Sworn to and subscribed before me on

Jan 31 2017

Cheryl L. Ramirez  
Notary Public, State of Texas  
My Commission Expires:

1/27/18



2017CI02041

NO. \_\_\_\_\_

**EX PARTE**

**§**

**IN THE DISTRICT COURT**

**438**

**§**

**JUDICIAL DISTRICT**

**CALVIN DAY**

**§**

**BEXAR COUNTY, TEXAS**

**FIAT**

**16**

**MARCH**

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.

**Michael E. Mery**

2/3/2017

**Presiding Judge**

SIGNED on 2/3/2017

**37th District Court**

**JUDGE PRESIDING  
Bexar County, Texas**

# Exhibit A

CAUSE NO: 2011 CR 3682

OFFENSE: SEXUAL ASSAULT

THE STATE OF TEXAS

§

IN THE 376 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 HODD, 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.
- 0605 – 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 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,

John M. Hodd  
Assistant Criminal District Attorney Appointed Special  
Bexar County, Texas  
State Bar Number 00792382

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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.

John M. Hodd  
Presiding Judge, Bexar County, Texas

15 DEC 18 PM 1:19

JOHN M. HODD  
DISTRICT ATTORNEY  
BEXAR COUNTY

12182015 9P1565

# Exhibit B

CAUSE NO: 2011 CR 3683  
OFFENSE: § 82.01 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 Bunn

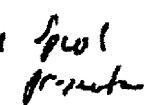
NOW COMES NICHOLAS LAHOOD, Criminal District Attorney of Bexar County, Texas by and through the undersigned Assistant Criminal District Attorney, and respectfully requests the Court to dismiss the above entitled and numbered criminal action for the following reason:

- 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

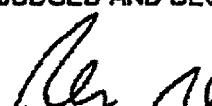
WHEREFORE, PREMISES CONSIDERED on this the 12<sup>th</sup> day of Feb. 2016. It is requested that the above entitled cause be dismissed.

Respectfully submitted,

  
Assistant Criminal District Attorney, Appointed for  
Bexar County, Texas  
State Bar Number 0071222 

None

The foregoing motion having been presented to me on this the \_\_\_\_\_ 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.

  
Presiding Judge, Bexar County, Texas

345P2000

02162016

FILED  
KAY MEKANNEY  
DISTRICT CLERK  
BEXAR COUNTY  
FEB 12 PM 4:58  
DEPUTY  
